

PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation of Electric Vehicle Policy and Regulation

5-EI-156

ORDER

This is an Order in the Public Service Commission of Wisconsin's (Commission) investigation to consider present and future policies and regulations of electric vehicles (EV) and their associated infrastructure as they pertain to electric service in the state of Wisconsin. This Order creates a framework designed to provide regulatory clarity on the criteria the Commission will use to evaluate EV program proposals from any electric utility.

Introduction

On February 21, 2019 the Commission issued a Notice of Investigation to consider present and future policies and regulations of EV and their associated infrastructure as they pertain to electric utility service in the state of Wisconsin. ([PSC REF#: 359979](#).) On April 8, 2019 Commission staff issued a Request for Comment to interested parties, utilities, and the general public with a series of 28 questions soliciting commenters' general views on EV issues and asking specific questions on identified policy and regulatory considerations. ([PSC REF#: 363720](#).) Responses to the Request for Comment from 42 commenters were summarized in the Commission staff Memorandum dated September 9, 2019. ([PSC REF#: 375500](#).) Based on the input from respondents on the appropriate next steps in the investigation, the Commission conducted a workshop on December 5, 2019 to facilitate further discussion on the range of issues in the investigation. ([PSC REF#: 379765](#).)

The Commission staff's Request for Comment asked commenters to identify the barriers they perceived to EV adoption in Wisconsin. Limited availability of charging infrastructure was the most frequently cited barrier to EV adoption for utilities, parties, and public commenters, followed by upfront purchase costs of EVs for customers and limited public awareness and education on EV issues. The Request for Comment also asked commenters to identify the top areas of interest they believed to merit further attention from the Commission. Multiple topics received significant interest, led by access to charging infrastructure, as well as:

- The appropriate pricing and design of rates for the electricity used for EV charging;
- Load management of the increased electric use that would be associated with greater proliferation of EVs, including opportunities to cost-effectively incorporate the increased load through “managed charging” approaches to shift charging away from periods of peak demand;
- EV-related subsidies and incentives that could be provided through utility programs;
- Clarifying whether third-party ownership of charging infrastructure requires the owner to be regulated as a public utility;
- Determining appropriate procedures for cost recovery of utility EV investments; and
- The role of utilities in providing EV awareness and education.

More than 60 participants attended the follow-up December workshop. Attendees were split into six breakout groups, and each group was asked to identify what they considered to be the most important strategies for addressing the infrastructure or other barriers impeding the deployment of EVs and EV charging stations.

Workshop breakout groups reinforced that the priorities identified by written comments were key strategies for addressing deployment barriers. For example, multiple groups reported that effective rate design and development of load management approaches could support EV deployment by helping to address questions about costs and operations faced by EV owners, utilities, and other actors considering EV investments. In addition, multiple groups highlighted two strategies related to the Commission's overall regulatory approach. First, multiple groups prioritized regulatory clarity: defining clear Commission expectations regarding allowable, unallowable, and preferred activities to diminish uncertainties that could discourage customers, utilities, and others from taking action. Second, multiple groups supported developing EV program pilots, to help utilities serve the needs of existing EV customers and improve utility and Commission understanding of key issues in advance of future increases in EV deployment.

At its open meeting of August 27, 2020 the Commission approved issuing the draft Order for public comment.¹ ([PSC REF#: 396201](#).) A request for comment was issued on September 3, 2020, with comments due October 8, 2020. ([PSC REF#: 396191](#).) The Commission received 20 comments on the draft Order: 3 from utilities and utility representatives, 2 from members of the public, and 15 from parties. The Commission reviewed this matter at its open meeting of December 17, 2020.

Findings of Fact

1. Barriers to EV adoption in Wisconsin include, but are not limited to, insufficient charging infrastructure, the upfront costs of EVs and associated charging equipment, and limited customer awareness and education.

¹ Commissioner Nowak dissented on the issuance of the draft Order.

2. Commission and utility policies and regulations related to electric service in the state of Wisconsin can significantly influence EV deployment. Issues include, but are not limited to, regulating the electric rates applicable to EV charging; load management of the increased electric use resulting from increased EV deployment; and defining the role of regulated utilities supporting charging infrastructure, customer programs, and customer awareness and education.

3. The Commission can influence EV deployment by providing regulatory clarity to reduce the uncertainties that could discourage electric utilities and other EV market actors from taking action.

4. Initiating EV pilot programs can help electric utilities serve existing customers with EVs and improve utility and Commission understanding of effective EV-related policies and regulations in advance of future increases in EV deployment.

Conclusions of Law

1. The Commission has authority under Wis. Stat. §§ 196.02, 196.03, 196.19, 196.20, and 196.22 to authorize regulated utilities to operate EV-related programs and recover funds through their rates.

2. The Commission has authority under Wis. Stat. §§ 196.02 and 196.37 to require regulated utilities to submit information to the Commission and provide customers with reasonable service.

3. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stat. §§ 196.02 and 196.395.

Opinion

The Commission can address many of the priorities identified by Commission staff in the investigation to date by supporting the development of EV pilots, within a framework that provides regulatory clarity and supports further efforts on a range of key EV issues, including but not limited to rate design, load management, and charging infrastructure investment.

The Commission encourages utilities to consider and submit plans that include at least one pilot program for residential customers, that addresses one or more priority issues identified in the investigation, such as rate design and load management, in the residential locations where the large majority of charging activity currently takes place. ([PSC REF#: 380335](#) at 4).

However, plans may also include any other pilot programs a utility believes would be appropriate to serve customer needs and explore EV-related issues. Commenters identified that distinct approaches may be beneficial for EV sub-markets including, but not limited to i) addressing equity and access across customers, ii) multifamily buildings and renters, iii) low-income customers, iv) medium and heavy-duty vehicles for both private fleets and public fleets, including public transit, and v) public charging and/or Level 3 (DC Fast) Charging.

To provide regulatory clarity, this Order establishes a program framework that defines the information utilities should include regarding each proposed pilot program, and the general criteria the Commission will use to determine whether to approve each proposal. Defining this framework can benefit utilities and other stakeholders by establishing regulatory expectations that can reduce uncertainties and support timely and efficient development of proposals. For example, the framework specifies multiple types of information that must be addressed within proposals to help the Commission assess whether the proposed programs will operate effectively, including program budgets, eligibility criteria, information on financial accounting procedures,

and identification and quantification of the projected benefits to customers, ratepayers, and the utility. Proposals must also identify clear performance goals and identify plans for collecting and reporting program data, to help utilities, the Commission, and other stakeholders use program experience to make more informed future decisions.

The framework does not prescribe specific approaches to achieving these standards.² Utilities maintain flexibility to design programs appropriate to serve the needs of their customers and use approaches to program design and operation appropriate to their organizations, for the Commission to evaluate on a case by case basis.

The framework applies to all EV-related pilot program proposals submitted by Commission regulated utilities.

Order

1. The Commission encourages utilities to propose residential EV programs to address one or more of the following aspects of charging service for residential customers: rates related to EV charging, load management efforts to control the timing of charging, and/or initiatives to address the upfront purchase costs of EVs and residential charging technology to potential owners. Utilities may also file plans for any other pilot programs a utility believes would be appropriate to serve customer needs and explore EV-related issues.

2. Any utility-submitted proposal for EV pilot programming shall include the following information, which the Commission will review in considering whether to approve the program:

² This permissive regulatory framework is not an administrative rule. *See* Wis. Stat. § 227.01(13).

- a. A program description that identifies the target customers to be served, barriers to the deployment of EVs and EV charging infrastructure the program is designed to address, the approaches the program will use to address the barriers for participating customers, and the pilot duration and end date;
- b. A program budget for the full proposed duration of the pilot;
- c. The performance goals of the program;
- d. Identification of the benefits the program is intended to provide for participants, ratepayers, and the utility, including but not limited to any benefits from load management;
- e. A description of performance metrics that will be used to assess program performance and measure program benefits, and the data that will be used to calculate those metrics;
- f. A schedule for reporting program outcomes, including participation, expenditures, and outcomes on performance metrics, that clearly identifies the timeframe for final reporting at the end of the pilot period as well as any interim reporting before the end of the pilot;
- g. The eligibility criteria for program participation;
- h. A description of the marketing and education approaches that will be used to make eligible customers aware of the program and help participants achieve program benefits;
- i. Proposed tariffs for any new or modified rates proposed as part of the program;

j. A description of proposed accounting procedures that explains how program costs will be recovered through rates in accordance with cost causation principles; and

k. Arrangements that will be made, and protocols that will be used, to support interoperability among all potential users.

3. Utilities may revise and resubmit proposals that the Commission has denied under this framework.

4. Utilities that elect to file for approval of an EV program shall file their EV program proposals with the Commission under individual utility tariff dockets (TE dockets).

5. Jurisdiction is retained.

DISSENT

Commissioner Nowak dissents and writes separately (see attached).

Dated at Madison, Wisconsin, the 22nd day of December, 2020.

By the Commission:

A handwritten signature in black ink that reads "Steffany Powell Coker". The signature is written in a cursive, flowing style.

Steffany Powell Coker
Secretary to the Commission

SPC:JF:cmb:DL: 01776383

PUBLIC SERVICE COMMISSION OF WISCONSIN

Investigation of Electric Vehicle Policy and Regulation

5-EI-156

DISSENT OF COMMISSIONER ELLEN NOWAK

I write to dissent from the Commission's adoption of the Order in docket 5-EI-156, Investigation of Electric Vehicle Policy and Regulation.

The adoption of this Order is unnecessary, premature and perilously close to rulemaking, which should be accomplished via the proper process, not orders by this Commission.

The Order is unnecessary for two reasons. First, as noted in the open meeting discussion, all of the large investor-owned utilities have an electric vehicle (EV) program or have filed for approval of a program. The final Order now "encourages" utilities to file programs as opposed to requires them to, as proposed in the draft order. This after-the-fact Order begs the question of why we are even proceeding. Our previous orders in EV dockets have sent the message on this Commission's position regarding certain aspects of EV programs. Providing an additional "framework" is unnecessary and can only lead to confusion. The Order does not indicate if the criteria listed in the framework is a mandatory list that must be met by utilities. Whether utilities can omit one of the criteria without fear of disapproval of a program is uncertain.

Second, the Order is unnecessary because it ignores the free market principles that can, and should, guide some of the criteria listed in the Order. It is not the Commission's role to guide consumers to certain products or regulate the minutia of how a product is used or adopted.

Nor is it the role of this Commission to ask utilities to address EV marketing approaches to certain markets or address protocols to support interoperability among potential users.¹ This is a clear instance of government overreach and intrusion in free market principles.

The Order is premature because other policy makers in this state have stayed silent in this docket. This Commission should respect the silence from the Legislature, the Wisconsin Department of Transportation and the Wisconsin Department of Agriculture, Trade and Consumer Protection, among others, and not fill the void by taking action which does not fall under our jurisdiction. As I have previously stated, this Commission does have a role in the EV market, albeit a limited one. Rate design and understanding the impact of more EVs on the distribution system come to mind. In other words, this Commission's role is limited to the core of what we do: ensuring safe, reliable and affordable rates. If EV's are going to become a larger share of the vehicle market (it is less than 1% in Wisconsin now), then we must work with other state agencies to understand how they will address the issues that fall under their purview (i.e. Legislature determining status of public or third-party charging stations and DOT addressing the shortfall in gas tax revenue). There is no need for this Commission to act now. More thoughtful action and understanding of other important factors related to EV adoption must be addressed.

Finally, this Order teeters on the verge of rulemaking due to its expansive scope of criteria listed in the framework. Not only do some of the criteria strike me as potentially outside of our jurisdiction (i.e. marketing issues and interoperability), they should be addressed in a rulemaking procedure to have the proper vetting and transparency. This Commission's jurisdiction is limited to the powers granted to us by the Legislature. Issuing broad orders that

¹ See Order at page 8.

list criteria and even declare in the title of the order² that it is setting policy walks up to, if not crosses, a line for which we must either defer to the Legislative body and/or follow the rulemaking process.

² “Investigation into Electric Vehicle *Policy* and Regulation.” (Emphasis added).